

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 551

Introduced by Assembly Member Nazarian

February 23, 2015

An act relating to rental property, to amend Section 1942.5 of, to amend and renumber Section 1954.1 of, and to add Chapter 2.5 (commencing with Section 1954.1) of Title 5 of Part 4 of Division 3 of, the Civil Code, relating to tenancy.

LEGISLATIVE COUNSEL'S DIGEST

AB 551, as amended, Nazarian. Rental property: ~~bedbugs~~. *bed bugs*.

Existing law imposes various obligations on landlords who rent out residential dwelling units, including the general requirement that the building be in a fit condition for human occupation. Among other responsibilities, existing law requires a landlord of a residential dwelling unit to provide each new tenant who occupies the unit with a copy of the notice provided by a registered structural pest control company, as specified, if a contract for periodic pest control service has been executed.

~~This bill would express the intent of the Legislature to enact legislation that would adopt statewide standards to govern the responsibility of landlords and tenants for the inspection and control of bedbugs in residential rental properties.~~

This bill would prescribe the duties of landlords and tenants with regard to the treatment and control of bed bugs. The bill would require a landlord to provide a prospective tenant, on and after July 1, 2016, and to all other tenants by January 1, 2017, information about bed bugs, as specified. The bill would prohibit a tenant from knowingly

bringing items onto a property and would require a tenant who finds a bed bug infestation to notify his or her landlord within 7 days if he or she finds or reasonably suspects a bed bug infestation. The bill would require a landlord to retain services of a pest control operator, as defined, within 3 days of notification, and would prescribe requirements for entries into dwelling units for purposes of inspection. If an infestation is confirmed, the bill would require that the landlord provide notice of the findings within 48 hours and that the landlord contract with a pest control operator to prepare and implement a bed bug treatment program within a reasonable time, as specified. The bill would require a landlord to provide affected tenants with specified information in connection with the treatment plan and would require tenants to fulfill responsibilities for unit preparation before a scheduled treatment, be responsible for the management of their belongings, and to vacate their units. The bill would require a landlord, after a bed bug infestation is confirmed, to prepare a written bed bug management plan, which would be available to tenants. The bill would prescribe requirements for the disposal of items infested by bed bugs.

The bill would prohibit a landlord from renting or leasing a vacant dwelling unit that the landlord knows, or reasonably should know, has a bed bug infestation. The bill would provide that an eviction proceeding to enforce tenant responsibilities is not retaliation and that a property undergoing a bed bug treatment is not, with respect to bed bugs, to be considered substandard or untenable. The bill would specify that a landlord or tenant may sue for injunctive relief for violations of its provisions. The bill would prohibit a landlord from being held liable for delays in bed bug treatment and control that are outside his or her control. The bill would state the intent of the Legislature to occupy the field with regard to this topic and would prohibit cities, counties, and other local entities from enacting a local law relating to this issue, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 **SECTION 1.** *Section 1942.5 of the Civil Code is amended to*
- 2 *read:*
- 3 1942.5. (a) If the lessor retaliates against the lessee because
- 4 of the exercise by the lessee of his rights under this chapter or

1 because of his complaint to an appropriate agency as to
2 tenantability of a dwelling, and if the lessee of a dwelling is not
3 in default as to the payment of his rent, the lessor may not recover
4 possession of a dwelling in any action or proceeding, cause the
5 lessee to quit involuntarily, increase the rent, or decrease any
6 services within 180 days of any of the following:

7 (1) After the date upon which the lessee, in good faith, has given
8 notice pursuant to Section 1942, *has provided notice pursuant to*
9 *Section 1954.14*, or has made an oral complaint to the lessor
10 regarding tenantability.

11 (2) After the date upon which the lessee, in good faith, has filed
12 a written complaint, or an oral complaint which is registered or
13 otherwise recorded in writing, with an appropriate agency, of which
14 the lessor has notice, for the purpose of obtaining correction of a
15 condition relating to tenantability.

16 (3) After the date of an inspection or issuance of a citation,
17 resulting from a complaint described in paragraph (2) of which
18 the lessor did not have notice.

19 (4) After the filing of appropriate documents commencing a
20 judicial or arbitration proceeding involving the issue of
21 tenantability.

22 (5) After entry of judgment or the signing of an arbitration
23 award, if any, when in the judicial proceeding or arbitration the
24 issue of tenantability is determined adversely to the lessor.

25 In each instance, the 180-day period shall run from the latest
26 applicable date referred to in paragraphs (1) to (5), inclusive.

27 (b) A lessee may not invoke subdivision (a) more than once in
28 any 12-month period.

29 (c) It is unlawful for a lessor to increase rent, decrease services,
30 cause a lessee to quit involuntarily, bring an action to recover
31 possession, or threaten to do any of those acts, for the purpose of
32 retaliating against the lessee because he or she has lawfully
33 organized or participated in a lessees' association or an organization
34 advocating lessees' rights or has lawfully and peaceably exercised
35 any rights under the law. In an action brought by or against the
36 lessee pursuant to this subdivision, the lessee shall bear the burden
37 of producing evidence that the lessor's conduct was, in fact,
38 retaliatory.

39 (d) Nothing in this section shall be construed as limiting in any
40 way the exercise by the lessor of his or her rights under any lease

1 or agreement or any law pertaining to the hiring of property or his
2 or her right to do any of the acts described in subdivision (a) or
3 (c) for any lawful cause. Any waiver by a lessee of his or her rights
4 under this section is void as contrary to public policy.

5 (e) Notwithstanding subdivisions (a) to (d), inclusive, a lessor
6 may recover possession of a dwelling and do any of the other acts
7 described in subdivision (a) within the period or periods prescribed
8 therein, or within subdivision (c), if the notice of termination, rent
9 increase, or other act, and any pleading or statement of issues in
10 an arbitration, if any, states the ground upon which the lessor, in
11 good faith, seeks to recover possession, increase rent, or do any
12 of the other acts described in subdivision (a) or (c). If the statement
13 is controverted, the lessor shall establish its truth at the trial or
14 other hearing.

15 (f) Any lessor or agent of a lessor who violates this section shall
16 be liable to the lessee in a civil action for all of the following:

17 (1) The actual damages sustained by the lessee.

18 (2) Punitive damages in an amount of not less than one hundred
19 dollars (\$100) nor more than two thousand dollars (\$2,000) for
20 each retaliatory act where the lessor or agent has been guilty of
21 fraud, oppression, or malice with respect to that act.

22 (g) In any action brought for damages for retaliatory eviction,
23 the court shall award reasonable attorney's fees to the prevailing
24 party if either party requests attorney's fees upon the initiation of
25 the action.

26 (h) The remedies provided by this section shall be in addition
27 to any other remedies provided by statutory or decisional law.

28 *SEC. 2. Section 1954.1 of the Civil Code is amended and*
29 *renumbered to read:*

30 ~~1954.1.~~

31 *1954.05.* In any general assignment for the benefit of creditors,
32 as defined in Section 493.010 of the Code of Civil Procedure, the
33 assignee shall have the right to occupy, for a period of up to 90
34 days after the date of the assignment, any business premises held
35 under a lease by the assignor upon payment when due of the
36 monthly rental reserved in the lease for the period of such
37 occupancy, notwithstanding any provision in the lease, whether
38 heretofore or hereafter entered into, for the termination thereof
39 upon the making of the assignment or the insolvency of the lessee
40 or other condition relating to the financial condition of the lessee.

1 This section shall be construed as establishing the reasonable rental
2 value of the premises recoverable by a landlord upon a
3 holding-over by the tenant upon the termination of a lease under
4 the circumstances specified herein.

5 SEC. 3. Chapter 2.5 (commencing with Section 1954.1) is
6 added to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

7
8 CHAPTER 2.5. BED BUG INFESTATIONS
9

10 1954.1. The Legislature finds and declares:

11 (a) Controlling bed bugs is uniquely challenging, as bed bug
12 resistance to existing insecticidal control measures is significant.
13 Cooperation among landlords, tenants, and pest control operators
14 is required for successful control.

15 (b) Tenants, property owners, and pest control operators have
16 distinct rights and responsibilities regarding bed bug infestations.

17 (c) Effective control is more likely to occur when landlords and
18 tenants are informed of the best practices for bed bug control.

19 (d) Early detection and reporting of bed bugs is an important
20 component required for preventing bed bug infestations. Tenants
21 should not face retaliation for reporting a problem.

22 (e) Lack of cooperation by landlords and tenants can undermine
23 pest control operator efforts to identify the presence of bed bugs
24 and control an infestation. Depending on the treatment strategy,
25 it is often critical that tenants cooperate with pest control operators
26 by reducing clutter, washing clothes, or performing other activities.
27 Likewise, inadequate or untimely response or planning by
28 landlords may exacerbate an infestation.

29 (f) Specific, enforceable duties of tenants and landlords are
30 necessary so that the failure of a tenant or landlord to cooperate
31 fully does not prevent effective investigation, treatment, and
32 monitoring of all infested and surrounding units.

33 1954.11. For the purposes of this chapter:

34 (a) "Bed bug management plan" means a written plan prepared
35 by a pest control operator for a property. The plan will outline the
36 responsibilities of the landlord and shall be consistent with NPMA
37 best practices and tailored to the conditions at the property. The
38 plan shall include, but is not limited to, the following:

1 (1) *Education of tenants to reduce the risk of introduction of*
2 *bed bugs to the property and to encourage reporting. Education*
3 *methods and frequency shall be based on resources of the landlord.*

4 (2) *Housekeeping and building maintenance procedures to help*
5 *prevent bed bug harborage, including recommendations from a*
6 *pest control operator about correcting bed bug hiding places and*
7 *entry points, for example by sealing cracks and crevices in walls,*
8 *ceilings, and floors, and fixing loose moldings and peeling*
9 *wallpaper.*

10 (3) *The landlord's process for responding to complaints and a*
11 *brief statement of the requirements of this chapter.*

12 (4) *Written documentation of any bed bug treatment program.*

13 (5) *Use of monitoring devices on a proactive basis, routine*
14 *monitoring inspections by trained employees or licensed pest*
15 *control operators, if appropriate, as determined by the pest control*
16 *operator and based upon the resources of the landlord.*

17 (6) *A complaint log that documents compliance with this*
18 *chapter.*

19 (b) *“Bed bug treatment program” means a program, based on*
20 *NPMA best practices, for treating an infestation to remove or kill*
21 *visible and accessible bed bugs and their eggs, either immediately*
22 *or through residual effects. The program shall be structured to*
23 *continue until the infestation is controlled.*

24 (c) *“Complaint log” means part of a bed bug management plan*
25 *that tracks a landlord's ongoing responses to each bed bug report.*
26 *The complaint log shall include, but is not limited to, verification*
27 *inspection and inspection of adjacent units, results of inspections,*
28 *records of notices provided to tenants, unit preparation inspections,*
29 *treatment type, locations and dates, and follow up inspections.*

30 (d) *“Inspection” means an investigation of the premises, using*
31 *NPMA best practices to confirm or rule out a bed bug infestation,*
32 *to identify all infested areas to determine treatment tactics, or to*
33 *verify that an infestation has been eliminated.*

34 (e) *“NPMA best practices” means best management practices*
35 *for bed bugs issued by the National Pest Management Association*
36 *in effect on January 1, 2015.*

37 (f) *“Pest control operator” means an individual with a Branch*
38 *2 license from the Structural Pest Control Board.*

39 (g) *“Pretreatment checklist” means unit preparation*
40 *requirements tailored to the treatment method, consistent with*

NPMA best practices, including, but not limited to, easy-to-understand instructions, pictures, and diagrams, prepared by the pest control operator and provided to tenants by the landlord or pest control operator. The checklist shall include instructions for how to treat tenant clothing, personal furnishings and other belongings, if treatment is required, and shall provide contact information for the pest control operator to answer questions prior to treatment.

1954.12. On and after July 1, 2016, prior to creating a new tenancy for a dwelling unit, a landlord shall provide a written notice to the prospective tenant as provided in this section. This notice shall be provided to all other tenants by January 1, 2017. The notice shall be in at least 10-point type and shall include, but is not limited to, the following:

(a) General information about bed bug identification, behavior and biology, the importance of cooperation for prevention and treatment, and the importance of and for prompt written reporting of suspected infestations to the landlord. The information shall be in substantially the following form:

Information about Bed Bugs

Bed bug Appearance: Adult bed bugs have flat bodies about $\frac{1}{4}$ of an inch in length. They are copper colored and have six legs. Young bed bugs are nearly colorless and are very small, about $\frac{1}{16}$ of an inch in length. Bed bugs do not fly. They either crawl or are carried from place to place. When a bed bug feeds, its body swells and becomes bright red, making it appear to be a different insect. Bed bugs can be hard to find and identify because they are tiny and try to stay hidden.

Life Cycle and Reproduction: The typical life span of a bed bug is 10 months. They can survive for months without feeding. Female bed bugs lay one to five eggs per day. Bed bugs grow to full adulthood in about 21 days.

Bed bug Bites: Because bed bugs usually feed at night when people are sleeping, most people do not realize they were bitten. Bed bugs do not transmit disease but are a nuisance. A person's reaction to insect bites is an immune response and so varies from person to person. Sometimes the red welts caused by the bites will not be apparent until many days after a person was bitten.

1 *Common signs of bed bugs and symptoms of a possible*
2 *infestation:*

3 • *Small red to reddish brown fecal spots on mattresses,*
4 *upholstery, or walls.*

5 • *Molted bed bug skins, white, sticky eggs, or empty eggshells.*

6 • *Very heavily infested areas may have a characteristically sweet*
7 *odor.*

8 • *Red, itchy bite marks, especially on the legs, arms, and other*
9 *body parts exposed while sleeping.*

10 *More information: See the websites of the United States*
11 *Environmental Protection Agency and the National Pest*
12 *Management Association.*

13
14 *(b) The procedure to report suspected infestations to the*
15 *landlord.*

16 *(c) Whether the property has a bed bug management plan.*

17 *(d) A copy of this chapter.*

18 1954.13. *A tenant shall not knowingly bring onto a property*
19 *personal furnishings or belongings that are infested with bed bugs.*

20 1954.14. *(a) Within seven days after a tenant finds or*
21 *reasonably suspects a bed bug infestation at a property, the tenant*
22 *shall notify the landlord in writing of that fact and the evidence*
23 *of infestation. Evidence of infestation includes, but is not limited*
24 *to, any recurring or unexplained bites, stings, irritation, or sores*
25 *of the skin that the tenant knows or reasonably suspects are caused*
26 *by bed bugs.*

27 *(b) Within three business days after a tenant or a public agency*
28 *notifies a landlord of an infestation or suspected infestation, the*
29 *landlord shall retain the services of a pest control operator to*
30 *verify the tenant's complaint and to conduct an inspection, if*
31 *determined to be necessary by the pest control operator.*

32 *(c) Entry to inspect a tenant's dwelling unit shall comply with*
33 *Section 1954. Entry to inspect any unit selected by the pest control*
34 *operator and to conduct followup inspections of surrounding units*
35 *until bed bugs have been eliminated is a necessary service for the*
36 *purpose of Section 1954. Tenants shall cooperate with the*
37 *inspection to facilitate the detection of bed bugs, including*
38 *providing requested information to facilitate the detection of bed*
39 *bugs to the pest control operator.*

1 (d) If a pest control operator's inspection confirms that a bed
2 bug infestation exists:

3 (1) The landlord shall notify all tenants of units identified for
4 treatment by the pest control operator of the findings of infestation.
5 The notification shall be in writing and made within 48 hours of
6 receipt of the pest control operator's findings. For confirmed
7 infestations in common areas, all tenants shall be provided notice
8 of the pest control operator's findings.

9 (2) If further inspections of the affected units or surrounding
10 units are necessary as determined by the pest control operator,
11 based on the NPMA best practices, subsequent notices shall include
12 information about future inspections. Each subsequent entry shall
13 require a separate notice conforming to Section 1954.

14 1954.15. (a) After an infestation is confirmed as described in
15 Section 1954.14, the landlord shall contract with a pest control
16 operator to prepare and implement a bed bug treatment program
17 to begin within a reasonable time. Ten days after the infestation
18 confirmation shall be presumed as a reasonable time.

19 (b) At least seven calendar days prior to treatment, the landlord
20 shall provide to the affected tenants with the following:

21 (1) A cover sheet from the landlord, in at least 10-point type,
22 disclosing:

23 (A) The date or dates of treatment, the deadline for tenant
24 preparation of the unit, and the date, hour, and length of time, if
25 any, the tenant shall be absent from the unit.

26 (B) A statement that the tenant may request assistance or an
27 extension of time to prepare the unit, to the extent required by law,
28 to reasonably accommodate a disability.

29 (C) A statement that a tenant not entitled to a reasonable
30 accommodation under law may also request an extension of time
31 to prepare the unit.

32 (2) A pretreatment checklist with information provided by the
33 pest control operator, which shall be in accordance with NPMA
34 best practices.

35 (c) The tenant shall fulfill his or her responsibilities for unit
36 preparation before the scheduled treatment, as described in the
37 pest control operator's pretreatment checklist. Tenants shall be
38 responsible for the management of their belongings, including,
39 but not limited to, clothing and personal furnishings.

1 (d) Tenants who are not able to fulfill their unit preparation
2 responsibilities shall promptly notify the landlord. For a tenant
3 not entitled to a reasonable accommodation under law who
4 requests an extension of time to prepare the unit, the landlord shall
5 extend the preparation time by three days.

6 (e) If an extension of time is provided in order to reasonably
7 accommodate a tenant required under law to receive a reasonable
8 accommodation, or for other tenants as provided in subdivision
9 (d), the landlord shall provide all affected tenants with a notice
10 of the revised dates specified in subparagraph (A) of paragraph
11 (1) of subdivision (a).

12 (f) A tenant shall cooperate in vacating his or her unit as notified
13 for treatment purposes and shall not reenter the unit until directed
14 by the pest control operator to do so.

15 (g) Inspection of unit preparation and bed bug treatment and
16 posttreatment inspection and monitoring of all affected and
17 surrounding units as recommended by the pest control operator
18 are a necessary service for the purpose of Section 1954. In addition
19 to the cover sheet and any revisions under subdivision (e), the
20 landlord shall provide separate written notice of entry pursuant
21 to Section 1954 for treatments.

22 1954.16. After a bed bug infestation is confirmed by a pest
23 control operator or by a health officer under paragraph (12) of
24 subdivision (a) of Section 17920.3 of the Health and Safety Code,
25 a pest control operator and the landlord shall prepare a written
26 bed bug management plan for the property. This plan shall be
27 made available to tenants upon request.

28 1954.17. It is unlawful for a landlord to rent or lease, or offer
29 to rent or lease, any vacant dwelling unit that the landlord knows
30 or should reasonably know has a current bed bug infestation.

31 1954.18. Service of a three-day notice and filing of an unlawful
32 detainer action to enforce tenant responsibilities under this chapter
33 shall not be considered unlawful retaliation under Section 1942.5.

34 1954.19. A property that is undergoing an active bed bug
35 treatment program in compliance with this chapter shall not, with
36 respect to bed bugs, be considered to be substandard as defined
37 in Section 17920.3 of the Health and Safety Code, to be
38 untenantable as defined in Section 1941.1, or to be in breach of
39 the implied warranty of habitability.

1 1954.20. A landlord or tenant disposing of items infested with
2 bed bugs, including, but not limited to, bedding, furniture, clothing,
3 draperies, carpeting, or padding, shall securely seal the material
4 in a plastic bag that is all of the following:

- 5 (a) Of a size as to readily contain the disposed material.
6 (b) Labeled as being infested with bed bugs.
7 (c) Furnished as needed to the tenant by the property owner or
8 pest control operator.

9 1954.21. In addition to any other remedies provided by law,
10 a landlord or tenant may sue for injunctive or declaratory relief
11 for violations of this chapter.

12 1954.22. A landlord shall not be liable for any damages due
13 to delays in bed bug treatment and control that are outside the
14 landlord's control.

15 1954.23. (a) Except as provided in subdivision (b), to the end
16 of providing a single, uniform approach to the treatment of bed
17 bug infestations in residential tenancies in California, it is the
18 intent of the Legislature to occupy the field with regard to this
19 subject. Cities, counties, and other local entities are prohibited
20 from enacting a local law on this subject.

21 (b) The comprehensive ordinances and regulations of the City
22 and County of San Francisco regarding the treatment and control
23 of bed bug infestations are deemed to satisfy this chapter and are
24 not preempted.

25 ~~SECTION 1. It is the intent of the Legislature to enact~~
26 ~~legislation that would adopt statewide standards to govern the~~
27 ~~responsibility of landlords and tenants for the inspection and~~
28 ~~control of bedbugs in residential rental properties.~~